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From: Martin Fleit Reference: USSN 09/610,142

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#### MESSAGE:

**PLEASE DELIVER THE FOLLOWING COMMUNICATION CONCERNING THE BELOW IDENTIFIED CASE**

Inventor: Masahiro ITO

Confirmation No.:4378

Serial No.: 09/610,142

Art Unit: 3623

Filed : July 5, 2000

Examiner:Jeanty, Romain

For: A SYSTEM FOR COLLECTING DATA VIA THE INTERNET

Attorney Docket No: 719-X00-006

#### 1. PRELIMINARY RESPONSE TO OFFICE ACTION.

**FIRM NAME: FLEIT KAIN GIBBONS GUTMAN BONGINI & BIANCO P.L.**

**NAME OF ATTORNEY: MARTIN FLEIT**

**SIGNATURE OF ATTORNEY:** *Martin Fleit by Thomas Ziegler*

**DATE:** December 22, 2004

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DEC 22 2004

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application : 09/610,142  
Applicant : Masahiro Ito  
Confirmation : 4378  
Filed : July 5, 2000  
TC/A.U. : 3623  
Examiner : Jeanty, Romain  
Docket No. : 719-X00-006

Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450

**PRELIMINARY RESPONSE TO OFFICE ACTION**

Sir:

Responsive to the Office Action mailed August 23, 2004, Applicant seeks clarification of certain inconsistencies in the Office Action which make it impossible for the Applicant to formulate a full and proper response. Specifically, in section 5 of the Office Action (Note: the sections are mis-numbered in the Office Action; the section in question here is the second section 5, which should actually have been numbered as section 6), claims 6, 7 and 8 were rejected "...under 35 U.S.C. 103(a) as anticipated by Walker et al "Walker" (U.S. 6,594,638)." The use of the term "anticipated" in combination with the reference to Section 103 renders the rejection ambiguous; it is not

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known whether the Examiner views the claims in question as totally lacking in novelty and therefore fully anticipated by Walker, or whether he views them as reciting subject matter that is obvious in view of Walker. Compounding this problem is the fact that Walker is US Patent No. 6,616,458, not US Patent No. 6,594,638 as stated in the rejection. Thus, Applicant is uncertain whether the Examiner is basing the rejection on Walker et al (US No. 6,616,458), or on the previously cited Feldman reference (US No. 6,594,638).

Clarification of the above issues would be sincerely appreciated so that Applicant can file an appropriate and accurate response to the outstanding Office Action. Applicant respectfully requests that the Examiner issue a clarifying Office Action, and reset the period for response, bearing in mind that the new period for response cannot exceed the 6 month statutory limit.

Respectfully submitted,

*Martin Fleit (by Thomas Ziegler Reg. 27,988)*

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